

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EASY SPIRIT, LLC,

Plaintiff,

v.

SKECHERS U.S.A., INC. and
SKECHERS U.S.A., INC. II,

Defendants.

Case No. 1:19-cv-03299-WHP

**INDEX OF EXHIBITS IN SUPPORT OF DEFENDANTS SKECHERS U.S.A., INC. AND
SKECHERS U.S.A., INC. II'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Your Honor's Individual Rule of Practice III.C, Defendants Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II ("Skechers") hereby provides an index of all Exhibits associated with Skechers' contemporaneously filed Motion for Summary Judgment. All of the below Exhibits are provided attached to the Declaration of Emily C. Welch, Esq., with authentication of relevant Skechers-produced documents provided by the separate Declarations of Jessica Baruch, Savva Teteriatnikov, and Neil Sadis, as indicated below.

Letter	Bates Number	Authenticated	Description
A			Excerpts from the deposition transcript of Melissa Hobbs
B			Excerpts from the deposition transcript of Savva Teteriatnikov
C	SKNY0080906		Product Development & Approval Form
D			Excerpts from the deposition transcript of KariAnne Spear
E	SKNY0131157	Neil Sadis	Summary tab of excel sheet showing Skechers sales data

Letter	Bates Number	Authenticated	Description
F	SKNY0045181-SKNY0045184	Jessica Baruch	Email dated September 25, 2018 from Melissa Hobbs
G	SKNY0043754	Jessica Baruch	Email from Timothy M. Lakin dated September 26, 2018
H	SKNY0048189-SKNY0048190	Jessica Baruch	Email from Melissa Hobbs dated April 1, 2019
I	SKNY0058893	Jessica Baruch	A box mock-up for the Commute Time shoe dated December 3, 2018
J			Deposition transcript of Henry Besanceney, III taken on February 13, 2020
K			Excerpts from the deposition transcript of Mark DeZao taken on February 14, 2020
L			August 3, 2020 Hearing transcript before the Honorable Judge Pauley
M			Plaintiff Easy Spirit LLC's Amended Objections and Responses to Defendants Skechers' Second Set of Interrogatories (Nos. 9-25) dated May 22, 2020
N			Excerpts from the combined deposition transcripts of Matthew Burris taken on February 11 and March 4, 2020
O	ESNY_-SP002-1; ESNY_-SP002-2		Photos produced by Easy Spirit of a sample physical Traveltime shoe
P			Excerpts from the deposition transcript of Jessica Baruch taken on January 20, 2020
Q	SKNY0000003	Savva Teteriatnikov	Document containing photos of shoes
R	SKNY0000004	Savva Teteriatnikov	Photo of a Tommy Hilfiger shoe
S	SKNY-SP001-1 through SKNY-SP001-7	Jessica Baruch	Photos of a physical Skechers shoe
T	SKNY0020202-08	Savva Teteriatnikov	Email from KariAnne Spear dated September 12, 2018
U	SKNY0131127	Jessica Baruch	Email from Emma Stevens dated September 11, 2018
V		Emily Welch	Certificate of registration for United States Registration

Letter	Bates Number	Authenticated	Description
			Number 4,595,283 for the mark COMMUTER owned by Levi Strauss & Co. which registered September 2, 2014
W			Website printout taken on August 19, 2020 from skechers.com featuring the Commute Time – Knitastic shoe
X			Website printout taken on August 17, 2020 from Amazon.com featuring the Commute Time shoe
Y			Website printout taken on August 17, 2020 from kohls.com featuring the Commute Time shoe
Z			Website printout taken on August 17, 2020 from shoesensation.com featuring the Commute Time shoe
AA			Website printout taken on August 17, 2020 from Beallsflorida.com featuring the Commute Time shoe
AB			Excerpts from the deposition transcript of Timothy Lakin taken on February 19, 2020
AC	SKNY0099142	Neil Sadis	Excel sheet showing Skechers Sales numbers for prior shoes
AD	SKNY0094878-5046	Neil Sadis	Excerpts from the Skechers Fall 2002 catalog
AE	SKNY0095906-SKNY0096012	Neil Sadis	Excerpts from the Skechers Fall 2004 catalog
AF	SKNY0096627-69	Neil Sadis	Excerpts from the Skechers 2008 catalog
AG	SKNY0096670-92	Neil Sadis	Excerpts from the Skechers Spring 2008 catalog
AH	SKNY0096726-31	Neil Sadis	Excerpts from the Skechers Women's Sport Fall 2009 catalog
AI	SKNY0097112-39	Neil Sadis	Excerpts from the Skechers Sport 2011-2012 catalog
AJ	SKNY0099105-7		Website printout from ryka.com featuring the Women's Lillianna Mule

Letter	Bates Number	Authenticated	Description
AK			Plaintiff Easy Spirit, LLC's Responses to Defendants' First Set of Requests for Admission [Nos. 1-195] dated March 13, 2020
AL	SKNY0098918-20		Website printout from Poshmark featuring a Dansko Brown Leather Kenzie Clog
AM			Declaration Certifying Authenticity of Records from Dansko dated March 6, 2020, attaching sales numbers from 2010 to 2019, produced by third party Dansko bearing Bates number DANSK_000001 (records excerpted)
AN	SKNY0098921-23		Website printout from Poshmark featuring a Dansko Women's Kaya Clog Black Women's Size 37
AO	SKNY0098949-64		Defendants' Exhibit 78, marked at the February 13, 2020 deposition of Henry Besanceney, a website printout from Poshmark featuring a New Balance 801 Hot Pink shoe
AP			Declaration Certifying Authenticity of Records from New Balance dated March 3, 2020, attaching sales numbers produced by third party New Balance bearing Bates numbers NEWB_000001-3 (records excerpted).
AQ	SKNY0099013-28		Defendants' Exhibit 79, marked at the February 13, 2020 deposition of Henry Besanceney, a website printout from Poshmark featuring a New Balance 802 Floral mule
AR	SKNY0099029-45		Defendants' Exhibit 80, marked at the February 13, 2020 deposition of Henry Besanceney, a website printout from Poshmark featuring a New

Letter	Bates Number	Authenticated	Description
			Balance Everlights Womens Slip On Mules
AS	SKNY0099079-82		Printout from Zappos.com featuring a New Balance FuelCore Nergize Mule
AT	SKNY0099075-78		Defendants' Exhibit 81, marked at the February 13, 2020 deposition of Henry Besanceney, a printout from Zappos.com featuring a New Balance FuelCore Nergize Mule
AU	ESNY_033951		Defendants' Exhibit 11, marked at the February 12, 2020 deposition of Shanya Perera, a photo of a shoe
AV	ESNY_033953		Defendants' Exhibit 12, marked at the February 12, 2020 deposition of Shanya Perera, a photo of a shoe
AW			Defendants' Exhibit 75, marked at the February 13, 2020 deposition of Henry Besanceney, a printout from Walmart.com of Athletic Works Women's Essential Slip On Athletic Shoe
AX			Defendants' Exhibit 76, marked at the February 13, 2020 deposition of Henry Besanceney, a printout from Walmart.com of Walmart Athletic Works Women's Athletic Works Mule Slip On Shoe
AY	EASTL_000001-163 (records excerpted)		Declaration Certifying Authenticity of Records from Eastland dated March 6, 2020, attaching documents produced by third party Eastland
AZ	SKNY0098927-29		Defendants' Exhibit 99, marked at the February 14, 2020 deposition of Mark DeZao, a website print from Kohls.com featuring Eastland Cynthia Women's Clogs

Letter	Bates Number	Authenticated	Description
BA	SKNY0098906-12		Defendants' Exhibit 94, marked at the February 14, 2020 deposition of Mark DeZao, a website printout from Amazon of Ryka Women's Catalyst Mule
BB	SKNY0080841-44		Airwalk Footwear Spring 2003 catalog
BC	SKNY0080848-55		Airwalk Spring 1997 catalog
BD	SKNY0098930-34		Defendants' Exhibit 100, marked at the February 14, 2020 deposition of Mark DeZao, a website printout from Kohls.com of Easy Street Holly Women's Mules
BE	CHARM_0000018		Declaration Certifying Authenticity of Records from Easy Street/Charm Step dated June 10, 2020, attaching a sales document produced by third party Easy Street/Charm Step
BF	SKNY0098935-37		Website printout from Kohls.com featuring Easy Street Roam Women's Sport Mule
BG	SKNY0098945-48		Website printout from Kohls.com of Easy Street Sport Barbara Women's Print Clogs
BH	SKNY0080805-7	Neil Sadis	Defendants' Exhibit 95, marked at the February 14, 2020 deposition of Mark DeZao, a Sears Summer Sales 2013 Catalogue
BI	SKNY0098915-17		Defendants' Exhibit 96, marked at the February 14, 2020 deposition of Mark DeZao, a website printout from Poshmark of Cole Haan Suede Nike Air Mules Women's Size 7 shoe
BJ	SKNY0080763-66	Neil Sadis	Defendants' Exhibit 101, marked at the February 14, 2020 deposition of Mark DeZao, Receptor Collection Spring/Summer 2004 catalog
BK	SKNY0080862-65	Neil Sadis	Ecco AW 2001 Collection catalog

Letter	Bates Number	Authenticated	Description
BL	SKNY0080826-28	Neil Sadis	Ecco Spring & Summer 2003 catalog
BM	SKNY0080829-32	Neil Sadis	Ecco S/S 2001 Collection catalog
BN	SKNY0080792-96	Neil Sadis	Ecco A/W 2001 catalog
BO	ESNY_000634-56		Article titled "Top 10 Best Shoes For Standing All Day in 2019"
BP	SKNY0080780-82	Neil Sadis	Jim Rennie's New What's Hot for Spring 2001 catalog
BQ	SKNY0080866-69	Neil Sadis	B.A. Mason catalog
BR			Defendants' Exhibit 77, marked at the February 13, 2020 deposition of Henry Besanceney, a website print out from Amazon.com of Propet Women's Anna shoe
BS	ESNY_033957		Defendants' Exhibit 72, marked at the February 13, 2020 deposition of Henry Besanceney, a photo of a black Walking Cradle shoe
BT	SKNY0131130- SKNY0131134		USPTO information for United States Registration No. 1,602,419 for the mark MEPHISTO TRAVEL's
BU	SKNY0131129		Website printout from ShoewNW.com featuring Women's Travel Shoes
BV	SKNY0131136- SKNY0131138		USPTO information for United States Registration No. 5,044,108 for the mark TRAVEL FEET
BW	SKNY0131140- SKNY0131145		USPTO information for United States Registration No. 5,118,467 for the mark TRAVEL LITE & Design
BX	SKNY0131139		Website printout from Off the Beaten Track of Travel Lite shoes
BY	SKNY0131135		Website printout from Off the Beaten Track of Royce in Black Sneakers
BZ	SKNY0131147- SKNY0131148		USPTO information for United States Registration No.

Letter	Bates Number	Authenticated	Description
			5,986,565 for the mark TRAVELACTIV
CA	SKNY0131149		Website printout of from Amazon.com of Propet Women's TravelActiv Slip-on Sneaker
CB	PROP_000001-288 (documents excerpted)		Declaration Certifying Authenticity of Records from Propet USA Inc. dated April 27, 2020, attaching documents
CC	SKNY0131146		Website printout from Amazon.com of Propet Women's Travelactiv Fashion Sneaker
CD	SKNY0131150- SKNY0131152		USPTO information for United States Registration No. 5,329,705 for the mark TRAVELTEK
CE			Expert Report of Jeffery A. Stec, Ph.D. dated July 3, 2020
CF	ESNY_036230-45		Presentation titled "Data Products, Summary Profile Report, Easy Spirit, 12/11/2014"
CG			Plaintiff Easy Spirit, LLC's Responses to Defendants Skechers First Set of Interrogatories (Nos. 1-8) dated July 19, 2019
CH	ESNY_000148- ESNY_000358		Alleged sales data as produced by Plaintiff bearing Bates number ESNY_148-ESNY_358; Ex. 3 to Deposition Transcript of Matthew Burris
CI	ESNY_063961		Alleged sales data as produced by Plaintiff from 2010 to 2020
CJ	ESNY_036878		Summary tab showing alleged sales data as produced by Plaintiff from October 2011 to December 2017
CK	ESNY_000599-633		Article titled "The BEST Travel Shoes for Men & Women Updated in 2019" by Josh Holt
CL	ESNY_033466-507		Article titled "15 Best Shoes for Back & Lower Pain"

Letter	Bates Number	Authenticated	Description
CM	ESNY_033588- ESNY_033594		Review in Podiatry Shoe Review of Easy Spirit Traveltime shoe dated September 8, 2012
CN	ESNY_033828-73		Article titled “Your votes are in: the 30 most comfortable shoes for teachers,”
CO	ESNY_033508-27		Article titled “Top 10 Best Walking Shows For Women in 2017 Reviewed”
CP	ESNY_033445-65		Article titled “Best Shoes for Seniors,”
CQ	ESNY_000516-28		Article on Nurse Theory titled “12 Best Shoes for Standing All Day (Reviews & Buyers Guide)
CR			Excerpts from the deposition transcript of Shanya Perera taken on February 12, 2020
CS	ESNY_000136-137		Defendants’ Exhibit 34, marked at the February 12, 2020 deposition of Shanya Perera, Traveltime Costs spreadsheet
CT	ESNY_033073-102		Defendants’ Exhibit 27, marked at the February 12, 2020 deposition of Shanya Perera, a presentation titled “Easy Spirit Insights/Discovery”
CU	ESNY_000001-102		Excerpts of Easy Spirit advertisements
CV	ESNY_000823		Easy Spirit advertisement
CW	ESNY_000824		Hamrick’s advertisement
CX	ESNY_033978		Bealls advertisement for Easy Spirit 10 th Anniversary
CY	SKNY0092678- SKNY0092759	Neil Sadis	Defendants’ Exhibit 58, marked at the February 13, 2020 deposition of Henry Besanceney, Skechers Spring 2000 catalog
CZ	SKNY0000766- SKNY0000767	Neil Sadis	Skechers Advertisement
DA	SKNY013100711		Website printout from Walmart.com of Athletic Works Women’s Essential Slip On Athletic Shoe

Letter	Bates Number	Authenticated	Description
DB	SKNY0080873-SKNY0080875	Neil Sadis	Betula March 2005 catalog
DC	ESNY_033961		Black Walking Cradle shoe
DD	SKNY0092424-SKNY0092464	Neil Sadis	Excerpts from the “Skechers port 2000” catalog
DE	SKNY0092760-SKNY0092841	Neil Sadis	Excerpts from the “Skechers Spring 2000 by Mail” catalog
DF	SKNY0093403-SKNY0093564	Neil Sadis	Excerpts from the “Skechers Fall 2001” catalog
DG	SKNY0094146-SKNY0094203	Neil Sadis	Excerpts from the “Skechers Spring-Summer 2001 by Mail” catalog
DH	SKNY0000778-SKNY0000785	Neil Sadis	“Skechers Active Flex Studio 2011-2012” catalog
DI	SKNY0095716-SKNY0095720	Neil Sadis	Excerpts from the Skechers USA Footwear Spring II 03/Summer 03 catalog
DJ	SKNY0098574-SKNY0098575	Neil Sadis	Skechers Women’s Active flyer
DK	SKNY004389-SKNY004393	Savva Teteriatnikov	Plaintiff’s Exhibit 10, marked at the January 17, 2020 deposition of Savva Teteriatnikov, a Skechers design document

Respectfully submitted on August 20, 2020.

/s/ Robert L. Lee

Robert L. Lee (*Admitted Pro Hac Vice*)

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*Attorneys for Defendants Skechers U.S.A., Inc. and
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 20, 2020, a copy of the foregoing document was served via electronic mail upon all counsel of record.

Date: August 20, 2020

/s/ Robert L. Lee
Robert L. Lee